

(2) The applications have not been designated for formal evidentiary hearing; and

(3) The Commission determines, initially or at any time during the procedure outlined in paragraph (b) of this section, that such procedure is appropriate, and that, from the information submitted and consideration of such other matters as may be officially noticed, there are no substantial and material questions of fact presented (other than those relating to the comparative merits of the applications) which would preclude a grant under paragraphs (a) and (b) of § 101.47.

(b) Provided that the conditions of paragraph (a) of this section are satisfied, applicants may request the Commission to act upon their mutually exclusive applications without a formal hearing pursuant to the summary procedure outlined below:

(1) To initiate the procedure, each applicant will submit to the Commission a written statement containing:

(i) A waiver of the applicant's right to a formal hearing;

(ii) A request and agreement that, in order to avoid the delay and expense of a comparative formal hearing, the Commission should exercise its judgment to select from among the mutually exclusive applications that proposal (or proposals) which would best serve the public interest; and

(iii) The signature of a principal (and the principal's attorney if represented).

(2) After receipt of the written requests of all of the applicants the Commission (if it deems this procedure appropriate) will issue a notice designating the comparative criteria upon which the applications are to be evaluated and will request each applicant to submit, within a specified period of time, additional information concerning the applicant's proposal relative to the comparative criteria.

(3) Within thirty (30) days following the due date for filing this information, the Commission will accept concise and factual argument on the competing proposals from the rival applicants, potential customers, and other knowledgeable parties in interest.

(4) Within fifteen (15) days following the due date for the filing of comments, the Commission will accept

concise and factual replies from the rival applicants.

(5) From time to time during the course of this procedure the Commission may request additional information from the applicants and hold informal conferences at which all competing applicants will have the right to be represented.

(6) Upon evaluation of the applications, the information submitted, and such other matters as may be officially noticed the Commission will issue a decision granting one (or more) of the proposals which it concludes would best serve the public interest, convenience and necessity. The decision will report briefly and concisely the reasons for the Commission's selection and will deny the other application(s). This decision will be considered final.

LICENSE TRANSFERS, MODIFICATIONS,
CONDITIONS AND FORFEITURES

§ 101.53 Assignment or transfer of station authorization.

(a) No station license, or any rights thereunder, may be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation or any other entity holding any such license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience and necessity will be served thereby.

(b) For purposes of this section, transfers of control requiring Commission approval must include any and all transactions that:

(1) Change the party controlling the affairs of the licensee; or

(2) Affect any change in a controlling interest in the ownership of the licensee, including changes in legal or equitable ownership.

(c) Requests for transfer of control or assignment authority must be submitted on the application form prescribed by § 101.13 or § 101.15, and must be accompanied by the applicable showings required by §§ 101.19, 101.21, and 101.55.

(d) The Commission must be promptly notified in writing when a licensee is voluntarily or involuntarily placed in bankruptcy or receivership and when

an individual licensee, a member of a partnership which is a licensee, or a person directly or indirectly in control of a corporation which is a licensee, dies or becomes legally disabled. Within thirty days after the occurrence of such bankruptcy, receivership, death or legal disability, an application of involuntary assignment of such license, or involuntary transfer of control of such corporation, must be filed with the Commission, requesting assignment or transfer to a successor legally qualified under the laws of the place having jurisdiction over the assets involved.

(e) The assignor of a station licensed under this part may retain no right of reversion or reassignment of the license and may not reserve the right to use the facilities of the station for any period whatsoever. No assignment of license will be granted or authorized if there is a contract or understanding, express or implied, pursuant to which a right of reversion or reassignment of the license or right to use the facilities are retained as partial or full consideration for the assignment or transfer.

(f) No special temporary authority, or any rights thereunder, may be assigned or otherwise disposed of, directly or indirectly, voluntarily or involuntarily, without prior Commission approval.

§ 101.55 Considerations involving transfer or assignment applications.

(a) Licenses may not be assigned or transferred prior to the completion of construction of the facility. However, consent to the assignment or transfer of control of such a license may be given prior to the completion of construction where:

(1) The assignment or transfer does not involve a substantial change in or ownership or control of the authorized facilities; or

(2) The assignment or transfer of control is involuntary due to the licensee's bankruptcy, death, or legal disability.

(b) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses whenever applications (except those involving pro forma assignment or transfer of control) for consent to assignment of a license, or

for transfer of control of a licensee, involve facilities:

(1) Authorized following a comparative hearing and have been operated less than one year;

(2) Involve facilities that have not been constructed; or

(3) Involve facilities that were authorized following a random selection proceeding in which the successful applicant received preference and that have been operated for less than one year.

(c) At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee subsequent to the acquisition of the license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

(d) If a proposed transfer of radio facilities is incidental to a sale or other facilities or merger of interests, any showing requested under paragraph (a) of this section must include an additional exhibit that:

(1) Discloses complete details as to the sale of facilities or merger of interests;

(2) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interests; and

(3) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.

(e) For the purposes of this section, the one year period is calculated using the following dates (as appropriate):

(1) The initial date of grant of the license, excluding subsequent modifications;

(2) The date of consummation of an assignment or transfer, if the station is acquired as the result of an assignment